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Courthouse Assistance Offices

By Patrick D. Costello



In July, courthouse assistance offices will open in five locations around Idaho. These offices are designed to link the public to lawyers and other services. The main emphasis will be on providing service in family law matters, but assistance will also be available for domestic violence, small claims, and other civil cases. Four offices will be located in Latah, Valley, Gooding, and Bannock counties. A fifth office will serve six counties in the Seventh Judicial District.

The sites for the five offices were selected by the Supreme Court's Committee to Increase Access to the Courts ("Access Committee"), chaired by Fourth District Judge Joel Horton. All 44 Idaho counties were invited to submit proposals. The Access Committee hopes to experiment with various staffing and service delivery models at the five offices to learn which methods work best.

The offices will be funded for an initial six-month trial period by the Idaho Supreme Court, through a grant from the State Justice Institute.

The Access Committee recognized that the most effective way to assist litigants is usually to get them legal representation. The thrust of the project, therefore, will be to educate pro se litigants as to the advantages of legal representation, and the manner in which an attorney can assist them with their case.

In its June 26, 1998 report to the Idaho Supreme Court, the Committee stated that "the vast majority of the unrepresented are those who represent themselves as a result of financial necessity rather than choice." At the Courthouse Assistance Office, persons having difficulty affording an attorney will be able to obtain application forms for various legal service providers, including Idaho Legal Aid Services, Idaho Volunteer Lawyers Program, the Legal Aid Clinic at the University of Idaho College of Law, and information about other direct legal services, such as Department of Health and Welfare child support attorneys. They will also have access to information about local attorneys and the Idaho State Bar's Lawyer Referral Service. In this manner, the office will serve as a one-stop clearinghouse to access legal services.

For those who simply cannot or will not hire an attorney, the Courthouse Assistance Office will provide videos which explain the Idaho court system in general, and the procedure in family law cases in particular. There will be interactive software available to assist them in filling out domestic violence and other court forms. They will be told about mediation, and how to access local mediators. In most offices, there should be Internet access to useful information. There will be information on workshops available locally or through distance learning centers, such as the IVLP's divorce modification workshops and Idaho Legal Aid Service's pro se divorce workshops.

Perhaps most importantly, there will be a staff person available to answer questions and give directions to various resources, and to assist with the use of computer and other technology. Latah County and Seventh District plan to staff their offices with a part-time attorney or paralegal. Deputy court clerks will likely staff the other three offices. Staff assistance will be supplemented by members of the Bar, who have been or will be recruited to provide assistance on either a pro bono or reduced fee basis at the Latah and Gooding County offices and perhaps others.

Rising Tide Of Self-Represented Parties

The statistics on self-representation in Idaho indicate the need for courthouse assistance offices. Between 1990 and 1997, the percentage of civil cases filed in Idaho by pro se plaintiffs increased from ten to thirteen percent. A staggering 87% of all civil defendants were self-represented throughout this same period. In domestic relations cases, for the same seven year period, more than a third of the cases were filed by pro se plaintiffs, and three out of four defendants were self-represented.²

These numbers continue to increase each year. Last year, in Bannock County for example, forty percent of all plaintiffs and eighty percent of the defendants in domestic relations cases were self-represented, according to Sixth District Trial Court Administrator Suzanne Johnson. Her statistics show that more than 97% of the parties in domestic violence cases represented themselves. Ninety-four percent of defendants in all other Bannock County civil cases were self-represented as well in 1998.³

These findings are consistent with national trends, as well.⁴ Reasons cited for this phenomenon include the rising cost of litigation, cut-backs in funding for legal services, the growth of do-it-yourself law businesses, anti-lawyer sentiment, and the breakdown in dispute resolution functions traditionally performed by institutions such as families and religions.⁵ An Arizona study found that self-represented persons in domestic relations cases tended to be younger, lower-educated, lower-income persons with unskilled jobs. Not surprisingly, those with newer marriages and without children or significant assets were more likely to self-represent.⁶

Other Assistance Projects

Federal courts in Idaho already provide pro se assistance. The U.S. District Court for the District of Idaho has published its own "Pro Se Handbook," and its pro se law clerk John Hammond is available to answer questions about procedural requirements and to make referrals to IVLP and Idaho Legal Aid Services. Courts in other western states provide assistance programs for the self-represented. King County, Washington, Superior Court has a "Family Law Facilitator Program" for pro se domestic relations

litigants. Maricopa County (Phoenix), Arizona, Superior Court has a "Self-service Center" for pro se litigants in domestic relations and probate matters. Arizona and Utah courts use touch-screen technology called "Quickcourt" to assist litigants complete court forms for divorce, name changes, landlord/tenant cases, and child support modifications. Quickcourt also provides information on alternative dispute resolution mechanisms. Ventura, California courts offer a "Family Law Pro Per Clinic."

Elsewhere, New York City Family Court has assistants on staff who actually prepare pleadings after interviewing the litigants. Hennepin County (Minneapolis) District Court uses volunteer attorneys who provide brief on-site consultations to self-represented parties in a variety of civil areas, but do not assist in document preparation. Other court assistance programs are operating in Maryland, New Jersey, New Mexico, Nevada, Florida, Colorado, and the District of Columbia.⁴

Like Idaho's project, many of these projects were started with funding from the State Justice Institute, a foundation which sponsors innovative court programs. Some have since become self-supporting by charging fees for forms, other materials and services. Others have been financed through increases in divorce filing fees or other public funding.

At the end of the six-month pilot project, the five assistance offices will be evaluated by the Justice Management Institute. The evaluation will determine whether the offices have been effective, both in increasing the quality of services to the public, and in saving court time and resources. If so, then an effort will be made to provide these services through court clerk's offices throughout Idaho.

Let Us Hear From You

Any member of the Bar who has comments or suggestions about the Courthouse Assistance Project, or who would like to get involved at one of the offices is encouraged to contact project director Pat Costello at the University of Idaho College of Law, (208) 885-7077 (e-mail: costello@uidaho.edu), or any of the following contact persons for the individual assistance offices:

Latah County:

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Frances H. Thompson, Attorney
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Valley County:

Leland Heinrich
Valley County Clerk/Auditor/Recorder
(208) 382-4297

Debra Galtner, Deputy Clerk, 382-4150

Tamara Probst
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Gooding County:

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Fifth District Trial Court Administrator
lwright@co.twin-falls.id.us

Judge Kevin Cassidy
Gooding County Magistrate Judge
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Leslie Renner or Becky Tanner
Deputy Clerks, 934-4261.

Bannock County:

Suzanne Johnson
Sixth District Trial Court Administrator
(208) 236-7355
suzyj@co.bannock.id.us

Penny Brown
Deputy Clerk, 236-701
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Seventh District:

Burt Butler
Seventh District Trial Court Administrator
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PATRICK D. COSTELLO is a visiting professor of law at the University of Idaho, where he is also director of the Courthouse Assistance Offices Project. He is a former magistrate judge of the second district, and was a partner in the Boise Law firm of Park, Costello and Burkett. He graduated from Kansas University and the Boston University School of Law, and has been a member of the Idaho State Bar since 1979.

ENDNOTES

1 Recommendations of the Committee to Increase Access to the Courts, p.1 (June 26, 1998)

2 C. Keller, Meeting the Demands of Pro Se Litigants in Idaho, p.2 (Idaho Supreme Court, 1997) and 1997 case filing statistics compiled by the Idaho Supreme Court.

3 S. Johnson, Proposal: Courthouse Assistance Office, Bannock County Idaho, (February 19, 1999)

4 J. Goldschmidt, B. Mahoney, H. Solomon, and J. Green, Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers, pp.8-9 (American Judicature Society, 1998)

5 Ibid., p.10

6 Ibid., p. 11-12

7 Ibid., pp. 73-104

8 Ibid. and M. Singh, Pro se Resource Center Task Force Report, (King County, Washington, December 6, 1995)

President's Message *continued from page 4*

A similar desperado by the name of Henry Plummer operated in the Lewiston area. While we don't have space for the entire story, it is interesting to note that Plummer was hanged by vigilantes in Bannock City, Montana on gallows that he had built to hang some of his enemies.

Respect and confidence in the rule of law have replaced the call for vigilantes. Two recent surveys show that seventy-five percent of Americans have trust and confidence in today's judicial system. We have all worked hard to earn this confidence and can be proud in our profession.

JUDGE HART received his J.D. from the University of Idaho College of Law. He was elected district judge for the Fifth Judicial District in 1986, and was the administrative judge for the Fifth Judicial District as well. Judge Hart also serves as the judge pro tem with the Idaho Supreme Court and Court of Appeals. He is serving a six month term as president of the board of commissioners of the Idaho State Bar.

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